UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *5/16/11*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *13-24 and 26-30* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *13-24 and 26-30* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
   application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claims 13-24 and 26-30 have been examined.

Election/Restrictions

Claim 1-12 are withdrawn from further consideration pursuant to 37 CFR

1.142(b) as being drawn to a nonelected invention. Election was made of Group II or

claims 13-24 in the reply filed on 7/31/06.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 13-24 and 26-30 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Angles (5,933,811) in view of Hu (6,173,322) in view of Gerace

(5,848,396).

Claim 13: Angles discloses:

 a creative selection server coupled to a network; (Fig. 2, item 18; Fig. 4, item

18;)

a content server, coupled to the network separately from the creative selection

server (Fig. 2, item 14; Fig. 4, item 14), that issues at least one redirect command to a

user computer in response to receiving a user request for non-advertising content ,

wherein the redirect command is configured to direct the user computer to a direct

connect server (Fig. 4; Flg. 3, items 302, 304, 306; col 15: 1-12); and

the direct connect server being connected to the network; and the creative

selection server and the content server, being separately connected, wherein the direct

connect server (Fig. 2):

receives creative selection criteria from the user computer (Fig. 3, items 304,

306, 308, 310; Fig. 4); and

responsive to the user request to receive non-advertising content and the at least

one redirect command from the content server (Fig. 4, Fig. 3):

generates a request for a creative message as a function of the creative

selection criteria (Fig. 4; Fig. 3);

transmits the request for the creative message to the creative selection

server (Fig. 4; Fig. 3);

receives an identification of one or more creatives from the creative selection

server (Fig. 3, item 310); and

sends the identification of the one or more creatives to the user computer (Fig. 3,

item 310; Fig. 4, step F; Fig. 1; Fig. 2).

Examiner notes that Applicant's claim 13 has four separate computers (user

computer, content server, direct connect server, creative selection server). Also, the

claim 13 relation between the four computers can be described as follows. A user

computer requests non-ad content from a content server. The content server gives a

redirect command to the user computer that requests ad content from a direct connect

server. The direct connect server then requests the ad content from a creative selection

server. And, the prior art combination renders obvious these features.

        In Figure 2, Angles discloses that the user, advertiser/creative selection server,

and content provider can all communicate with each other (Figure 2). Hence, Angles in

Figure 2 already discloses three of the four computers. Angles discloses the user

computer, the content server, and the advertisement computer. Angles discloses that

the user requests content from the content server (Figures 3, 4). The content server

then returns the content to the user and also a redirect command that redirects the user

to the advertisement provider in order to receive the advertisement content (Fig. 3, 4;

Fig. 3, items 304, 306; 310; Fig. 4, item 32; col 15: 1-12). Notice in Angles that the user

receives the content form the content provider server.   And, the user receives the

advertisement content directly from the advertisement provider (col 13:20-31). And, the

advertisement provided to the user is based on user information such as user

preference information and also that the ad can be relevant to the content provided

(Figs. 3, 4).

        Hence, Angles discloses all the Applicant's features except for a separate direct

connect server and creative selection server. Angles advertisement provider computer

performs the functions of both the Applicant's direct connect server and creative

selection server. Angles does not explicitly disclose that the advertisement provider can

utilize both a direct connect server and a creative selection server in order to perform

the functions of the advertisement provider computer. Angles also does not disclose

that the direct connect server and creative selection server are separately connected to the network.

However, Angles discloses an advertisement provider service with a multitude of databases and servers (Fig. 4, item 18; Fig. 2, item 18). And, Angles discloses a variety of server configurations at the advertisement provider for handling ad request, ad selection, and ad providing (Fig. 4, item 18; col 6: 4-12; col 13: 35-46; col 14:59-67). Hence, it would be obvious to one skilled in the art that Angles can use more than one server to perform the advertisement provider functions. One would be motivated to do this because the features are merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Additionally, as an example of this, Hu discloses that when a content request is made that a Network Request Manager can be directly connected to the Internet and provide information to one of many Content Servers which are also directly connected to the Internet. And, that the Content Server can then provide the content to the user (Fig. 1; Fig. 9b; Abstract). Hence, Hu's Network Request Manager functions as the Applicant's claimed direct connect server and Hu's content server functions as the Applicant's claimed creative selection server.

Hence, it is obvious that the advertisement content provided by Angles' advertisement provider server(s) is a type of content that can be provided by Hu's general content providing server(s) configurations. Or, it is obvious that the content

provided by Hu can be a variety of content from non-ad content to ad content to a wide variety of content. Hence, it is obvious that Angles advertisement provider functions can be performed by more than one separately connected servers. One would be motivated to do this in order to more efficiently provide the content (as Hu discloses).

Additionally, on 7/10/09, Applicant added the following features to the independent claim:

"and wherein the redirect command includes information descriptive of the location that the user computer was browsing on the content server; and. . .

 the request including the information descriptive of the location that the user computer was browsing on the content server;".

Angles renders obvious where the redirect command includes information descriptive of the location that the user computer was browsing on the content server; and. . . the request including the information descriptive of the location that the user computer was browsing on the content server.   Note that a redirect command is already addressed above.

And, Angles discloses wherein the advertising module is further configured to track consumer activities. (claims 9 and 16).

And, Angles discloses sending content to a user based on the profile of the user and also based on the specific content provider the user was just requesting from or browsing on (15:20-31, ". . . As discussed in more detail below, the advertising module 62 then uses the consumer profile to select an appropriate advertisement from the advertisement database 70. In another embodiment, <u>the advertising module 62 uses</u>

both the consumer profile and the content provider information to select an appropriate advertisement from the advertisement database 70. . .”; 7:60-8:8, “. . . The advertisement provider computer 18 uses the content provider member code to track the number of advertisements viewed by the consumer computers 12 connected to a particular content provider computer 14. . .”).   Hence, note that content is selected based on the user profile and also the current content provider that the user is accessing.

Also, note that content providers have websites (3:5-17, “. . . when accessing a content provider's website. . .”) and the use of cookies for tracking user identity and other relevant user history information (6:59-65, “. . .(Cookie). A file stored on the client computer which contains information such as user names and preferences. In the preferred embodiment, the Cookie in the consumer computer stores a member code which uniquely identifies each consumer. . .”).

Hence, Angles discloses tracking consumer activities and also that it is known which particular content provider the consumer is connected to when the consumer requests content that gets combined with advertising.

Hence, Angles discloses information descriptive of the location that the user computer was browsing on the content server; and. . . the request including the information descriptive of the location that the user computer was browsing on the content server

Additionally, on 10/30/09, Applicant added the following new claim amendments to the independent claim (new part underlined):

"establishes, on the direct connect server, a Uniform Resource Locator (URL) to receive the redirect command;

associates the URL on the direct connect server with a URL on the content server to indicate a location that the user computer was browsing on the content server;

receives, at the URL on the direct connect server associated with the URL on the content server, creative selection criteria from the user computer; and

responsive to the user request to receive non-advertising content and the at least one redirect command from the content server:

configures, using the direct connect server, the user profile to reflect the URL of the location that the user computer was browsing on the content server;

generates a request for a creative message as a function of the creative selection criteria, the request including the user profile that reflects the URL the information descriptive of the location that the user computer was browsing on the content server".

And, the prior art discloses that the redirect command includes information descriptive of the location that the user computer was browsing on the content server.

And, as stated preceding, it is obvious that the functions of the advertisement computer in Angles can be split up into the direct connect server and creative selection server as shown by Hu.

And, regards to the new features dated 10/30/09, in Angles, the advertisement provider computer is provided the information on the content server the user was browsing. Hence, as Hu shows the advertisement provider computer functions split into

a direct connect server and a creative selection server, it is obvious that the direct connect server can be provided with the information on the content server the user was browsing.

For example, Angles discloses wherein the advertising module is further configured to track consumer activities. (claims 9 and 16).

And, Angles discloses sending content to a user based on the profile of the user and also based on the specific content provider the user was just requesting from or browsing on (15:20-31, ". . . As discussed in more detail below, the advertising module 62 then uses the consumer profile to select an appropriate advertisement from the advertisement database 70. In another embodiment, the advertising module 62 uses both the consumer profile and the content provider information to select an appropriate advertisement from the advertisement database 70. . ."; 7:60-8:8, ". . . The advertisement provider computer 18 uses the content provider member code to track the number of advertisements viewed by the consumer computers 12 connected to a particular content provider computer 14. . .").   Hence, note that content is selected based on the user profile and also the current content provider that the user is accessing.

Also, note that content providers have websites (3:5-17, ". . . when accessing a content provider's website. . .") and the use of cookies for tracking user identity and other relevant user history information (6:59-65, ". . .(Cookie). A file stored on the client computer which contains information such as user names and preferences. In

the preferred embodiment, the Cookie in the consumer computer stores a member

code which uniquely identifies each consumer. . .").

Hence, Angles discloses tracking consumer activities and also that it is known

which particular content provider the consumer is connected to when the consumer

requests content that gets combined with advertising.

Furthermore, Angles request to the ad computer for ads (Fig. 2, item, 18; Fig. 3,

item 306, item 308, 310; Fig. 4, item 18) includes information on the content computer

the user was browsing:

(95) <u>Focusing now on the advertising module 62 illustrated in FIG. 4, the</u>

advertising module 62 processes messages from the consumer computers 12. . ..

Such server software is configured to process advertisement requests 26 from the

consumer computer 12.

(96)   In the preferred embodiment, <u>the advertisement requests 26 are embedded</u>

<u>into the content provider's electronic documents 32. When the consumer</u>

<u>computer 12 receives the advertisement requests 26, the consumer computer 12</u>

<u>executes the advertisement request 26. In the preferred embodiment, the</u>

<u>advertisement request 26 is an HTML tag which directs the consumer computer 12</u>

<u>to establish a communication link with the advertisement provider computer 18</u>. . .

(97)   <u>The advertising module 62 executes the content provider script 64 and</u>

<u>obtains the content provider member code. In addition, the advertising module</u>

<u>62 uses the content provider member code 54 to obtain information about the</u>

<u>content provider. In addition, the advertising module 62 obtains the consumer</u>

member code 22 from the consumer computer 12.

(98)   The advertising module 62 uses the consumer member code 22 to obtain a consumer profile from the registration database 68. As discussed in more detail below, the advertising module 62 then uses the consumer profile to select an appropriate advertisement from the advertisement database 70. In another embodiment, **the advertising module 62 uses both the consumer profile and the content provider information to select an appropriate advertisement** from the advertisement database 70. The advertising module 62 then sends a customized advertisement 30 directly to the consumer computer 12 to be incorporated into an electronic page 32 from the content provider computer 14". (14:58-15:51).

Note that the command to the ad computer includes URL information on the content provider the user was reading when the ad request was made. And, Hu discloses the ad computer functions being performed by a direct connect server and creative selection server.

Hence, the prior art discloses that the redirect command includes information descriptive of the location that the user computer was browsing on the content server. Hence, the prior art discloses establishing, on the direct connect server, a Uniform Resource Locator (URL) to receive the redirect command; associates the URL on the direct connect server with a URL on the content server to indicate a location that the user computer was browsing on the content server.

Also, in regards to other claim amendments Angles discloses that the consumer profile is updated and used for targeting (Fig. 3, 14:58-15:51).

Additionally, on 4/9/10, Applicant added the following features to the independent claims, "to correspond to a _specific_ location that the user was browsing".

Also, in Remarks dated 4/9/20, Applicant states that "specific location" can be interpreted as "knows the location of the content page the user is currently viewing". Or, the content page from where the ad request came is known.

Angles does not explicitly disclose that the advertiser is provided the information on the specific webpage the user was viewing at the time of request in order to better provide ads. However, note the citations preceding which show how Angles discloses providing an ad based on the content provider information from the content provider page where an ad request came from. Also, Angles discloses a request for an ad embedded within a particular content provider webpage (7:60-8:7; 18:20-35). Angles further discloses providing the ad using content provider information concerning the content provider page from where the request comes from (15:20-30, "In another embodiment, the advertising module 62 uses both the consumer profile and the content provider information to select an appropriate advertisement from the advertisement database 70.) Angles further discloses that the content provider information can include content provider website address (17:50-60, "… Proceeding to state 604, the content provider enters information which includes, but is not limited to, the content provider's website address, the name of the content provider, the type of products and services sold by the content provider, the size of the content provider, the content provider's account information, etc.".). Hence, since Angles knows the particular content provider website, and Angles knows the particular content provider

page from the ad request came from, and Angles discloses providing the ad based on

content provider information, it is obvious that Angles can provide the ad based on the

specific content provider page from where the ad request came. As a further example

of this, Gerace discloses that the advertiser is provided the information on the specific

webpage the user was viewing at the time of request so that an appropriate ad can be

provided (14:24-35,"...and program 31 would list the new user as the requester and

the current screen view as the page from which he made the request."; 16:35-55,

"…That is, the Page Objects 35a,b,c (i) assemble the data from a pertinent agate

source whose URL is passed in the initial request/option selection, (ii) format the data

into tables, and (iii) return it to server 27. Meanwhile the Ad Objects 33b,c,d determine

and return appropriate advertisements to be integrated into the screen view/page."

Gerace further discloses tracking all user actions including where requests come from

and are going so that appropriate content and ads can be presented to the user (6:55-

7:40). Hence, it is obvious that since Angles already knows where the ad request is

coming from, Angles can use the ad request page information in returning and

appropriate ad. One would be motivated to do this to better present ads of interest to

the user.

Hence, the prior art renders obvious the features of the Applicant's claims.

Additionally, On 5/16/11, Applicant amended the independent claims:

"wherein the direct connect server is configured to transmit one or more fail safe

communications to the user computer if the direct connect server does not receive the

identification of the one or more creatives from the creative selection server within a

threshold amount of time."

Also, Applicant's Remarks dated 5/16/11 address these newly amended

features.

Examiner further notes that it is the Applicant's claims as stated in the Applicant's

claims that are being rejected with the prior art. Although the claims are interpreted in

light of the specification, limitations from the specification are not read into the claims.

See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In interpreting

claim language, the broadest reasonable meaning of the words in their ordinary usage

as they would be understood by one of ordinary skill in the art is applied, taking into

account whatever enlightenment by way of definitions or otherwise that may be afforded

by the written description. See In re Morris', 127 F.3d 1048, 1054 (Fed. Cir. 1997). See

also In ream. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004) andIn re

Sneed, 710 F.2d 1544, 1548 (Fed. Cir. 1983). Claims are given their broadest

reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir.

2000). It is Appellant's burden to precisely define the invention. See In re Morris, 127

F.3d 1048, 1056 (Fed. Cir. 1997).

And, Examiner notes that "fail safe" only occurs in Applicant's Specification at

([18, 21]) of the PG_Pub version. And, "fail safe" is not really defined there. These

paragraphs only state in regards to "fail safe", "In the event that the Creative selection

server 213 does not respond to the DCS server 209 request for the creative 211 within

a specified time the DCS server 209 will send the user a <u>fail safe</u> creative, or a <u>fail safe</u> <href> or redirect command."

Hence, "fail safe" is open to a broad interpretation. Examiner will interpret "fail safe" to function as a default ad or server that is referenced when an first/original ad or server response is not found after a period of time.

Angles does not explicitly disclose "fail safe" communications. However, Hu discloses fail safe communications and fail safe server management:

"Those skilled in the art will recognize that multiple network request managers 102 might operate in a "<u>fail-safe</u>" mode. In this configuration, one network request manager 102 actually handles client requests received from wide-area network 108, while the other network request managers 102 monitor the status of the first. If the first network request manager 102 <u>fails,</u> for whatever reason, one of the others takes over responsibility for handling incoming client requests." (15:60-16:6).

Hu further discloses fail safe server and content management, and how to handle first content server failure by going to a default or fail safe server (2:65-3:2; 11:60-12:10; 15:15-30; 15:60-16:6; claim 17). Hu further discloses "keep alive" messages on servers by testing whether a server is available or not (14:34-45) and pinging with a time test to test whether a content server is functioning or not (claim 18; 15:40-50; "…If content server 106 does not respond within a set amount of <u>time,</u> it is presumed to be down…", 15:40-50). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Hu's fail safe server and content request management to Angles server and content request management. One would

have been motivated to do this in order to better assure that content is provided.

Alternatively, it would have been obvious to one having ordinary skill in the art at the

time of the invention to combine the features of the two inventions since the claimed

invention is merely a combination of old elements, and in the combination each

element merely would have performed the same function as it did separately, and one

of ordinary skill in the art would have recognized that the results of the combination

were predictable.

Claim 14: Angles discloses the request for creative message of claim 13 further

defined as a function of a stored profile (col 13:20-31).

Claims 15, 16, 18: The prior art discloses the above. Angles does not explicitly

disclose using IP address for targeting.

However, Angles discloses utilizing the IP address and the content provider as

relevant communications information and utilizing the Internet Service provider of the

user as relevant criteria for selection/targeting purposes (col 7, lines 10-26; col 9, lines

20-30; col 9, lines 35-45; col 10, lines 20-34 ; col 14, lines 15-26; col 16, lines 25-38;

col 17, lines 3-10).

Angles further discloses that domain name of the content server can be a criteria

(col 11, lines 17-26).

Also, it is old and well known that different Internet Service Providers are going to

utilize different domain names.

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to that IP information or domain information can be

utilized as a criteria in Angles's targeting based on a range of criteria. One would have been motivated to better use available information for targeting.

Claim 17: Angles discloses the request for creative message of claim 13 further defined as a function of whether or not the user computer has previously connected to the content server (Fig. 5; col 13:20-31). Note that the user registers and that a profile is kept. Hence, new users are known.).

Claim 19: Angles discloses the request for creative message of claim 13 further defined as a function of a search term entered by the user computer (2:20-30; 6:5-15).

Claims 20, 22: Angles further discloses that the content server that placed the content can be a criteria for the advertisement that is provided (col 13:20-31).

Claim 21: Angles discloses the request for creative message of claim 13 further defined as a function of whether or not the user computer has previously connected to the direct connect server (Fig. 5; col 13:20-31). Note that the user registers and that a profile is kept. Hence, new users are known.

Claim 23: Angles discloses the request for creative message of claim 13 further defined as a function of a meta tag on the content server (col 13:20-31).

Claim 24: Angles discloses the direct connect server of claim 13 further comprising a lookup table for storing category codes for use in generating a request for creative message (col 15: 30-42).

Claim 26: Please see the rejection of claim 13 above and particularly the citations to the Hu reference.

Claim 27: Angles further discloses wherein the information descriptive of the location includes a uniform resource locator corresponding to the location that the user computer is browsing on the content server (3:5-17, ". . . when accessing a content provider's website. . ."; 3:29-35, ". . .The content provider websites also register with the advertisement provider before they can receive the customized advertisement services.. .."; also see the rejection of the independent claim above).

Claim 28. Angles discloses wherein the direct connect server is configured to: (1) use the URL of the location that the user computer was browsing on the content server to associate the user request with a previously-established profile used for multiple users, and (2) use the previously-established profile for the user request to generate the request for the creative message. (3:65-4:5; 15:30-42).

Claim 29. The prior art discloses wherein the direct connect server is configured to identify the location that the user computer was browsing on the content server without requiring an additional message from the content server (see the rejection of the independent claim above. Also, note that the content provider information is provided in the initial redirect command via the script that comes with the redirect command. Also, note that the content provider has registered with the ad provider so the ad provider knows about the content provider once the content provider code is provided in the first redirect command, 15:5-17; 3:30-50; Fig. 4).

Claim 30. Hu further discloses wherein the one or more fail safe communications comprises one or more of a fail safe creative, a fail safe <href> , and a redirect

command (Note the citations to Hu regarding "fail safe" communications in the rejection of the independent claim above).

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are not found persuasive.

On 5/16/11, Applicant amended the independent claims:

"wherein the direct connect server is configured to transmit one or more fail safe communications to the user computer if the direct connect server does not receive the identification of the one or more creatives from the creative selection server within a threshold amount of time."

Also, Applicant's Remarks dated 5/16/11 address these newly amended features.

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In interpreting claim language, the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art is applied, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description. See In re Morris', 127 F.3d 1048, 1054 (Fed. Cir. 1997). See also In ream. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004) andln re Sneed, 710 F.2d 1544, 1548 (Fed. Cir. 1983). Claims are given their broadest

reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir.

2000). It is Appellant's burden to precisely define the invention. See In re Morris, 127

F.3d 1048, 1056 (Fed. Cir. 1997).

And, Examiner notes that "fail safe" only occurs in Applicant's Specification at

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paragraphs only state in regards to "fail safe", "In the event that the Creative selection

server 213 does not respond to the DCS server 209 request for the creative 211 within

a specified time the DCS server 209 will send the user a <u>fail safe</u> creative, or a <u>fail safe</u>

<href> or redirect command."

Hence, "fail safe" is open to a broad interpretation. Examiner will interpret "fail

safe" to function as a default ad or server that is referenced when a first/original ad or

server response is not found after a period of time.

Angles does not explicitly disclose "fail safe" communications. However, Hu

discloses fail safe communications and fail safe server management:

 "Those skilled in the art will recognize that multiple network request managers

102 might operate in a "<u>fail-safe</u>" mode. In this configuration, one network request

manager 102 actually handles client requests received from wide-area network 108,

while the other network request managers 102 monitor the status of the first. If the first

network request manager 102 <u>fails,</u> for whatever reason, one of the others takes over

responsibility for handling incoming client requests." (15:60-16:6).

Hu further discloses fail safe server and content management, and how to handle

first content server failure by going to a default or fail safe server (2:65-3:2; 11:60-

12:10; 15:15-30; 15:60-16:6; claim 17). Hu further discloses "keep alive" messages on
servers by testing whether a server is available or not (14:34-45) and pinging with a
time test to test whether a content server is functioning or not (claim 18; 15:40-50; "…If
content server 106 does not respond within a set amount of time, it is presumed to be
down…", 15:40-50). Therefore, it would have been obvious to one having ordinary skill
in the art at the time the invention was made to add Hu's fail safe server and content
request management to Angles server and content request management. One would
have been motivated to do this in order to better assure that content is provided.
Alternatively, it would have been obvious to one having ordinary skill in the art at the
time of the invention to combine the features of the two inventions since the claimed
invention is merely a combination of old elements, and in the combination each
element merely would have performed the same function as it did separately, and one
of ordinary skill in the art would have recognized that the results of the combination
were predictable.

Conclusion

The following prior art made of record and not relied upon is considered pertinent
to applicant's disclosure:

a) McCanne 20050010653 at Abstract; Primak 20020010783 at (claim 13); Joffe
(6185619) at (Det Paragraph 58); and Lewis 6553376 at (Det 28) disclose relevant
features to distributing/spreading server loads across content servers when content is
requested. These also disclose relevant features to redirecting and direct connect
servers.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ARTHUR DURAN whose telephone number is

(571)272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Namrata Boveja can be reached on (571) 272-8105. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

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you have questions on access to the Private PAIR system, contact the Electronic

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Arthur Duran
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Art Unit 3682

/Arthur Duran/
Primary Examiner, Art Unit 3622
4/26/2010